

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION
4 - - -

5 UNITED STATES OF AMERICA, : CASE NO. 1:21-CR-0085
6 :
7 Plaintiff, : MOTIONS HEARING
8 vs. :
9 : 20th of October, 2021
10 TRES GENCO, : 10:04 a.m.
11 :
12 Defendant. :
13 - - -

14 EXCERPTED TRANSCRIPT OF PROCEEDINGS
15 BEFORE THE HONORABLE SUSAN J. DLOTT, JUDGE
16 - - -

17 APPEARANCES:

18 For the Plaintiff:

19 Megan Gaffney-Painter, Esq.
20 Assistant United States Attorney
21 221 East Fourth Street, Suite 400
22 Cincinnati, Ohio 45202

23 For the Defendant:

24 Richard W. Monahan, Esq.
25 Federal Public Defender
26 250 East Fifth Street, Suite 350
27 Cincinnati, Ohio 45202

28 Also present:

29 ATF Special Agent Timur J. Housum
30 FBI Special Agent Patrick A. Gagan
31 Detective Erica Engle

32 Law Clerks:

33 Jennifer Johnson, Esq.
34 Michael Soder, Esq.

35 Courtroom Deputy:

36 William Miller

37 Stenographer:

38 Lisa Conley Yungblut, RDR, RMR, CRR, CRC
39 United States District Court
40 100 East Fifth Street
41 Cincinnati, Ohio 45202

PROCEEDINGS

(Proceedings held in open court at 10:04 a.m.)

* * *

(Previous proceedings not included in this excerpted transcript.)

THE COURT: Thank you, Counsel.

Mr. Miller, you can go ahead and swear the witness.

THE DEPUTY: Raise your right hand. You do solemnly swear that the testimony you're about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE COURT: Ms. Painter, you may proceed.

MR. MONAHAN: If she's comfortable, Judge, I would prefer that the witness have the mask off.

THE WITNESS: I'm fine with whatever.

THE COURT: Do you mind taking it off?

THE WITNESS: No.

THE COURT: I think we'll hear you much better.

THE WITNESS: I prefer to take it off.

THE COURT: Good. Unfortunately, first, the mask muffles your voice, and then the Plexiglass muffles your voice, and it is a little difficult to hear with both of those.

MS. GAFFNEY-PAINTER: Yes. To that end, Detective

1 Engle, I'll instruct you, to the best you can, to speak into
2 that microphone. It will help us all.

3 THE WITNESS: Sure.

4 ERICA ENGLE

5 DIRECT EXAMINATION

6 BY MS. GAFFNEY-PAINTER:

7 Q Detective Engle, where do you work?

8 A In the Highland County Sheriff's Office.

9 Q What is your title?

10 A Detective.

11 Q Generally speaking, what are your responsibilities as
12 a detective?

13 A I would handle cases such as burglaries, higher
14 felonies. A lot of times we assist the road cops with cases
15 that will take longer than their shift to complete.

16 Q How long have you been a detective?

17 A Four years.

18 Q And prior to becoming a detective, how long were you a
19 police officer?

20 A I've been there 20 years total.

21 Q So I would like to talk now about events that occurred
22 on March 12, 2020. Were you working that day?

23 A I was.

24 Q Before we get into the details of that day, in
25 connection with the events about which you are going to

1 testify, did you prepare a felony report for the Highland
2 County prosecutor?

3 **A** I'm sorry, are you asking prior to my shift?

4 **Q** No. I apologize. I mean prior to us today discussing
5 what happened on March 12, 2020, before I ask you those
6 questions --

7 **A** Yes, I did.

8 **Q** -- just asking did you prepare a report about these
9 events for the Highland County prosecutor's office?

10 **A** Yes, I did.

11 **Q** All right. In front of you I believe is a Government
12 Exhibit binder. Will you please turn to Tab 3? That's
13 Exhibit 3. Now, in front of you is what's been marked for
14 identification as Government Exhibit 3; do you recognize
15 this?

16 **A** Yes, I do.

17 **Q** What is it?

18 **A** This would be my felony packet.

19 MS. GAFFNEY-PAINTER: The government moves for the
20 admission of Government Exhibit 3.

21 THE COURT: Any objection?

22 MR. MONAHAN: No objection.

23 THE COURT: Government Exhibit 3 will be admitted
24 into evidence.

25 **Q** Now, while you were working on March 12, 2020, did you

1 respond to a residence on Stoney Point Road in Highland
2 County?

3 **A** Yes, I did.

4 **Q** Now, describe for us why you responded to that
5 residence on that day.

6 **A** The road deputies received a call of a domestic
7 violence between a mother and her son and the son was in his
8 bedroom with a firearm threatening his mother.

9 **Q** And when you say the son was in his bedroom
10 threatening his mother, is that based -- is that from the
11 call that was received or what are you basing that on?

12 **A** That was what went out on the radio, essentially,
13 maybe not verbatim, but essentially.

14 **Q** And to whom was that initial call placed?

15 **A** The Highland County Sheriff's Office 911 dispatch.

16 **Q** What did you see when you arrived at the residence in
17 response to that radio call?

18 **A** Sergeant Craig Seaman, Deputy Brandon Young, and
19 Deputy Nick Myers, along with a female, and a male they
20 hadn't already placed in handcuffs.

21 **Q** Can you describe for us the scene?

22 **A** We pulled in the driveway. It wasn't a really short
23 driveway. It was maybe a 25-yard driveway. There was three
24 vehicles plus the sheriff office's vehicles, a trailer, a
25 house trailer, light in color with a deck in the front, and

1 the deputies were speaking with the two individuals.

2 **Q** Now, you mentioned a male individual. Did you later
3 learn the name of that male individual that you saw when you
4 approached the residence?

5 **A** I did.

6 **Q** And what was his name?

7 **A** Tres Genco.

8 **Q** Looking in the courtroom today, do you see an
9 individual who is the same individual that you later
10 identified as Tres Genco present here in the courtroom
11 today?

12 **A** I do, seated at the defendant's table.

13 **Q** Can you please just describe an item of clothing he's
14 wearing?

15 **A** A correction's facility jump suit.

16 MS. GAFFNEY-PAINTER: Please let the record reflect
17 that the witness has identified the defendant, Tres Genco,
18 as the same Tres Genco that is the subject of her testimony
19 today.

20 THE COURT: Any objection, Mr. Monahan?

21 MR. MONAHAN: No, Your Honor.

22 THE COURT: Okay. The record will so reflect.

23 MS. GAFFNEY-PAINTER: Thank you, Your Honor.

24 **Q** When you responded to the residence on March 12, 2020,
25 how did you respond, in your vehicle, on foot, how did you

1 arrive there?

2 **A** I was a passenger in the vehicle. My sergeant was
3 driving.

4 **Q** And who's your sergeant?

5 **A** Sergeant Vincent Antinore.

6 **Q** Were there any other individuals with you in the
7 vehicle when you approached the residence?

8 **A** No.

9 **Q** Upon arriving at the residence, did you exit the
10 vehicle?

11 **A** I did.

12 **Q** And where did you go when you exited the vehicle?

13 **A** To the crowd of deputies and the two civilians.

14 **Q** What, if anything, did you hear when you approached
15 that group?

16 **A** Sergeant Craig Seaman was talking to Mr. Genco about
17 the location of a firearm.

18 **Q** And what was -- can you describe for us what you
19 recall of that conversation?

20 **A** Tres indicated at first that he didn't have a firearm,
21 and then stated that he did have a firearm, it was just in
22 the back seat of his Audi car that he was leaned up against.

23 **Q** And what, if anything, did officers say in response to
24 Mr. Genco's comment about his firearm?

25 **A** Do you care if we take a look at it, and he stated

1 that was fine.

2 **Q** What happened in response to the defendant saying that
3 was fine?

4 **A** Sergeant Seaman opened the driver's side door, looked
5 in the rear of the car, the back seat. He was unable to
6 locate a firearm. He, Tres Genco, then stated: Then, it's
7 probably in the trunk. Deputy Brandon Young opened the
8 trunk of the car, and underneath the car cover was -- do you
9 want me to continue?

10 **Q** Certainly.

11 **A** -- was a ceramic-plated body armor along with a rifle
12 and multiple boxes of ammo.

13 **Q** Now, you had testified that there was another civilian
14 individual, a female, present on the scene during these
15 events. Was that individual still present when this search
16 was being conducted?

17 **A** She was.

18 **Q** Now, did that individual have any reaction to the
19 discovery of the firearm in the vehicle?

20 **A** She did.

21 **Q** What was that reaction?

22 **A** She was completely shocked and questioned Tres on her
23 own as to why he had that.

24 **Q** And what, if anything, did the defendant say in
25 response to that individual's questions?

1 **A** I couldn't say for certain verbatim what she said,
2 but -- or what he said, but he dismissed it as if it was no
3 big deal.

4 **Q** Did that individual who -- do you happen to know the
5 relationship of that individual to the defendant?

6 **A** Yes. She identified herself as his mother.

7 **Q** All right. Did his mother speak with you or other law
8 enforcement about the incidents that were ongoing at the
9 residence at that time?

10 **A** She did.

11 **Q** And what do you recall her saying to you about it?

12 **A** She was very distraught initially based on why she had
13 called us. She brought into question Tres' behavior in the
14 last several months. She explained to us several different
15 reasons why she thought his behavior was out of control,
16 erratic, not like him. She was very concerned about his
17 behavior and what he had been up to.

18 **Q** Now, you just testified that she relayed to you
19 certain reasons that she believed that the defendant's
20 behavior had changed. Do you recall any of those reasons?

21 **A** I do.

22 **Q** Could you please share them with us?

23 **A** She stated that in the past, one of the things that he
24 had done was -- she thought he was getting back on track and
25 had joined the military, only once he got out of the

1 military, he became a very different person. He was very
2 agitated. He just did things that were out of character.
3 He had traveled to Greece for ten days without knowing
4 anybody or no rhyme or reason why he went, never discussed
5 why he was leaving, never discussed with her what he was
6 going to be doing while he was there.

7 I mean, there was just multiple conversation about how
8 she just thought his behavior was off. She had recently
9 located a firearm inside of her car. She questioned him
10 about it. He told her it was none of her business, don't
11 worry about it.

12 **Q** Now, what, if anything, did his mother say about any
13 documents that the defendant had prepared?

14 **A** His mom stated that while he was gone in the military,
15 she had cleaned his room, and when she had cleaned his room,
16 she had located a document that scared her to death about
17 killing multiple people in a large group.

18 **Q** After the discovery of the rifle and the body armor
19 inside of the vehicle, what happened next?

20 **A** Tres was questioned about where's the gun that his
21 mother had spoke about on the phone. Tres did not exit the
22 residence with a firearm, so we knew the firearm located in
23 the car could not have been the firearm that his mom spoke
24 about on the phone of him having. He stated he did not have
25 another firearm.

1 **Q** And what, if anything, did law enforcement say in
2 response to Mr. Genco claiming he did not have another
3 firearm?

4 **A** If I remember the conversation correctly, XXXXX -- I
5 apologize. His mother interrupted our conversation with him
6 and essentially told him that he was lying, that just like
7 the gun that she had told us that she had found a week ago
8 in the console of her car, he did have another gun. She
9 didn't know why he would tell us that. We asked him, you
10 know, where is the gun that she's telling us about. He
11 still said that he did not own one. He was asked for
12 permission to go in his bedroom and confirm his story.

13 **Q** What happened after law enforcement asked Mr. Genco
14 for permission to search his bedroom?

15 **A** Tres allowed us to go look in his bedroom.

16 **Q** After Mr. Genco provided consent to search his
17 bedroom, what did you do?

18 **A** Well, I waited. Sergeant Antinore placed him in the
19 rear of Deputy Myers' patrol car; instructed Deputy Myers to
20 leave the window down and wait outside that window; and
21 explained to Tres that if at any time he wanted to revoke
22 his consent to searching his bedroom, he need to relay that
23 to Deputy Myers; and instructed Deputy Myers to mark us on
24 the radio to back out of the room if at any time he decided
25 to revoke that consent.

1 **Q** What happened after that?

2 **A** Tres said that was fine. Myself, Sergeant Seaman,
3 Sergeant Antinore, and Deputy Brandon Young entered the
4 residence, accompanied by Tres' mother who showed us where
5 his bedroom was.

6 **Q** Did you participate in the search of that bedroom?

7 **A** I did.

8 **Q** What did you specifically search?

9 **A** Specifically, I walked in the bedroom. Directly to
10 the right was his bed. In between the door and the bed was
11 a tote. I believe I did search the closet. I'm certain
12 that I searched more, but for the purpose of today, I did
13 search those areas.

14 **Q** All right. Let me stop you there. Let's just go to
15 the beginning of your search. So after you entered the room
16 that the mother had identified as Mr. Genco's bedroom, what
17 is the first place you searched?

18 **A** His bed.

19 **Q** What were you looking for while you were searching his
20 bed?

21 **A** A handgun.

22 **Q** You testified a bit earlier about a tote. Can you
23 describe that tote for us?

24 **A** It was a standard storage tote big enough to hold a
25 gun. I don't know, 18-, 20-gallon tote, moving tote.

1 **Q** Where was that tote located?

2 **A** Between the doorway of the bedroom and the bed.

3 **Q** Was there a lid on that tote when you began your
4 search of it?

5 **A** No, there was not.

6 **Q** And if you could, just -- I believe you just testified
7 to it, but I want to make sure that I'm correct. What were
8 approximate dimensions of that tote?

9 **A** I'm going to assume they're about an 18- to 20-gallon
10 moving tote.

11 **Q** What material is that tote made out of?

12 **A** Plastic.

13 **Q** Was that tote large enough to have held a firearm?

14 **A** Certainly.

15 **Q** When you searched that tote, what did you find inside?

16 **A** A note.

17 **Q** If you could, before we get to the specific note, just
18 generally, what was held within that tote as far as you
19 recall?

20 **A** Paper, clothes. Without seeing a photograph of it, I
21 don't recall everything that was in it.

22 **Q** Now, you just mentioned a note. If you could, I'll
23 direct your attention to that exhibit binder, Government
24 Exhibit binder, white binder right there in front of you on
25 the table. If you could, please, turn to the Exhibit 4 tab.

1 Do you recognize this?

2 **A** I do.

3 **Q** What is this?

4 **A** This was a note pointed out by Tres' mother, the note
5 that she had found while he was away at the military.

6 **Q** And when you had just testified that you had searched
7 the tote and found a note, is Government Exhibit 4 the note
8 that you were referencing in your testimony?

9 **A** Yes.

10 MS. GAFFNEY-PAINTER: The government moves for the
11 admission of Government Exhibit 4.

12 THE COURT: Any objection?

13 MR. MONAHAN: No objection, Your Honor.

14 THE COURT: Government Exhibit 4 will be admitted.

15 MS. GAFFNEY-PAINTER: Thank you, Your Honor.

16 **Q** Detective Engle, was Government Exhibit 4 loose within
17 the plastic tote?

18 **A** Yes.

19 **Q** What did you do with Government Exhibit 4 after you
20 saw it inside the tote?

21 **A** I looked at it. Tres' mom -- I almost said her name,
22 I apologize -- she pointed out that was a note. We looked
23 at it to make sure that it didn't have any, you know,
24 directions on where he could have put a gun, things she was
25 speaking about the gun and the things that she had talked

1 about in the note. We set it aside.

2 **Q** And I believe you testified earlier that she had
3 mentioned something that was the note. Could you just
4 explain that a bit more for us?

5 **A** She had explained that she had located a note while he
6 was gone away in the military that was very alarming. She
7 didn't understand why he would be writing things like this.

8 **Q** And her identification of that note, did that happen
9 while you were searching the tote?

10 **A** Yes.

11 **Q** What did you do with Government Exhibit 4 after you
12 saw it?

13 **A** I set it on his mattress.

14 **Q** Did you continue to search after setting aside
15 Government Exhibit 4?

16 **A** Yes.

17 **Q** You had testified earlier that multiple law
18 enforcement officers were conducting this search at the same
19 time that you were searching; is that correct?

20 **A** Yes.

21 **Q** All right. What, if anything, did Sergeant Seaman
22 find in Mr. Genco's desk drawer?

23 **A** It appeared to be a room layout.

24 **Q** And on what did that room layout appear?

25 **A** I believe it just was a piece of paper.

1 **Q** Was that a loose piece of paper?

2 **A** Yes.

3 **Q** The desk drawer in which Sergeant Seaman found that
4 room layout you just testified about, was that drawer
5 sufficiently sized such that it could hold a handgun?

6 **A** Certainly.

7 **Q** Now, after Sergeant Seaman located that room layout
8 document, what did you tell Sergeant Seaman to do?

9 **A** Just leave it.

10 **Q** If you could, please, look back to your Government
11 Exhibit binder and turn to Government Exhibit Tab 5, please.
12 Do you recognize this?

13 **A** I do.

14 **Q** What is it?

15 **A** The layout Sergeant Seaman pointed out.

16 MS. GAFFNEY-PAINTER: Your Honor, the government
17 moves for the admission of Government Exhibit 5.

18 THE COURT: Any objection, Mr. Monahan?

19 MR. MONAHAN: No objection, Your Honor.

20 THE COURT: Government Exhibit 5 will be admitted.

21 **Q** You testified that you told Sergeant Seaman to leave
22 that document. Did Sergeant Seaman, in fact, leave that
23 document?

24 **A** Yes.

25 **Q** After Sergeant Seaman left that document, did you and

1 the other officers continue the search of the bedroom?

2 **A** We did.

3 **Q** Did you and the other law enforcement officers locate
4 a gun during your search?

5 **A** We did. In fact, we located two.

6 **Q** Could you please describe those for us?

7 **A** One was a BB gun wrapped in a blanket, if I recall,
8 and taped up. The other was a handgun located in the floor
9 vent heater duct.

10 **Q** Who located the handgun that was found in the vent?

11 **A** Deputy Brandon Young.

12 **Q** What happened immediately after Deputy Young found the
13 gun?

14 **A** We continued to search what was left to search, and
15 then we all decided to back out of the home.

16 **Q** Why did you decide to back out of the home?

17 **A** One, we felt that we had located the firearm that his
18 mother had told us about. Secondly, we thought that we were
19 dealing more -- dealing with more than just a domestic.

20 **Q** Did you and the other officers, in fact, exit the
21 bedroom?

22 **A** We did.

23 **Q** Did you and the other officers exit the home?

24 **A** We did.

25 **Q** What did you do immediately after you and the other

1 officers exited the home?

2 **A** Sergeant Antinore went and spoke with Tres Genco at
3 the rear of Deputy Myers' patrol car. He informed Tres that
4 we had located a firearm in the floor, and Tres asked for an
5 attorney.

6 **Q** After Mr. Genco asked for an attorney, what did you
7 do?

8 **A** We decided to come together and collectively decide
9 where we go from here. Sergeant Seaman knew some members of
10 a larger police force; Sergeant Antinore knew some as well.
11 They contacted members of the Portsmouth Federal Bureau of
12 Investigation unit, spoke with them. After they spoke with
13 them, we decided that we may not get the response that we
14 were looking for, but we felt as to protect the community
15 and see what we were really dealing with that we should
16 likely get a search warrant and decide what we were dealing
17 with.

18 **Q** If you could, take a look at the Government Exhibit
19 binder in front of you on the stand there and please turn to
20 Government Exhibit 1, Tab 1. Do you recognize this?

21 **A** I do.

22 **Q** What is it?

23 **A** This would be a copy of the certified copy of the
24 search warrant I pled for.

25 **Q** And did you, in fact, swear out this search warrant

1 with a magistrate judge?

2 **A** I did.

3 MS. GAFFNEY-PAINTER: The government moves for the
4 admission of Government Exhibit 1.

5 THE COURT: Any objection?

6 MR. MONAHAN: No objection.

7 THE COURT: All right. Government Exhibit 1 will
8 be admitted.

9 **Q** Now, to be clear, Detective Engle, are you the affiant
10 on this search warrant that appears as Government Exhibit 1?

11 **A** I am.

12 **Q** And did a judge approve this search warrant after you
13 had drafted it?

14 **A** Yes, Hillsboro Municipal Court Judge David McKenna.

15 **Q** What did you do after the judge approved this search
16 warrant?

17 **A** Myself and Sergeant Antinore returned back to Tres
18 Genco's residence.

19 **Q** Did you execute this search warrant at that time?

20 **A** We did.

21 **Q** When you executed this search warrant, did you leave a
22 copy of that warrant at the home?

23 **A** We did.

24 **Q** Where was the mother during the execution of this
25 search warrant?

1 **A** We later learned that she was in the parking lot of
2 our sheriff's office, but she had requested to be allowed to
3 leave in the meantime until we figured out what was going
4 on.

5 **Q** Now, that copy of the search warrant that you left at
6 the residence, did that copy include Exhibit A?

7 **A** It did.

8 **Q** Detective Engle, the documents that we discussed
9 earlier, Government Exhibit 4 and Government Exhibit 5, the
10 note from the tote and the floor plan, did you seize those
11 documents when you were executing the search warrant at the
12 residence?

13 **A** We did.

14 MS. GAFFNEY-PAINTER: No further questions, Your
15 Honor.

16 THE COURT: Thank you, Ms. Painter.

17 Mr. Monahan, do you wish to cross-examine?

18 MR. MONAHAN: Take just one moment?

19 THE COURT: Sure, take your time.

20 MR. MONAHAN: Good morning, Detective Engle.

21 THE WITNESS: Good morning.

22 MR. MONAHAN: As you know, I'm Richard Monahan. I
23 represent Tres Genco.

24 CROSS-EXAMINATION

25 BY MR. MONAHAN:

1 **Q** Okay. So discussing the day, March 12, 2020, correct?

2 **A** (Nodding head.)

3 **Q** You indicated that you were dispatched to that
4 residence because Mr. Genco you learned was the individual
5 that was basically locked in his bedroom with a firearm,
6 correct?

7 **A** I was not. I responded to the residence. The road
8 guys, the road deputies, were dispatched to that residence,
9 yes.

10 **Q** Okay. And I was trying to get to you learned --

11 **A** Sorry.

12 **Q** -- either from the dispatcher or when you got there,
13 Mr. Genco's locked in his bedroom with a firearm, was the
14 basic allegation?

15 **A** Right.

16 **Q** Okay. This is a trailer or mobile home, you
17 indicated?

18 **A** Yes.

19 **Q** So Mr. Genco has his own bedroom and the mother has
20 her own bedroom; is that your understanding?

21 **A** Yes.

22 **Q** Okay. So at some point, the discussion with Mr. Genco
23 turns to a handgun, correct?

24 **A** Yes.

25 **Q** And the mother has indicated that he has a handgun,

1 and basically the officers went to search to try to find the
2 handgun, correct?

3 **A** Yes.

4 **Q** And Mr. Genco was asked for his consent to search his
5 bedroom for this handgun, correct?

6 **A** Yes.

7 **Q** And he gave consent to search his bedroom for a
8 handgun, correct?

9 **A** Yes.

10 **Q** And as a result of that consent, you and fellow
11 officers went to Mr. Genco's bedroom to search for a
12 handgun, correct?

13 **A** Along with his mother, yes.

14 **Q** To search for a handgun, correct?

15 **A** Yes.

16 **Q** Okay. His mother was not searching for a handgun; I
17 assume that wouldn't be police procedure, to have the mother
18 search?

19 **A** No. She was standing in the doorway of the bedroom, I
20 would call it essentially supervising us.

21 **Q** Okay. So she showed you where the bedroom was, I
22 believe is what you said earlier, correct?

23 **A** Yes.

24 **Q** Okay. And then she stood in the doorway to the
25 bedroom, correct?

1 **A** Right.

2 **Q** All right. So you and two other officers go into Mr.
3 Genco's bedroom to search for a handgun, correct?

4 **A** Three, I believe.

5 **Q** I'm sorry. So it was a total of four officers?

6 **A** Yes.

7 **Q** Including yourself?

8 **A** Yes.

9 **Q** Okay. And the only permitted purpose at that point is
10 to look for a handgun, correct; we were clear on that?

11 **A** Right.

12 **Q** Okay. Now, you've indicated you first searched the
13 bed, correct?

14 **A** Yes.

15 **Q** And then you searched this tote that you had referred
16 to, correct?

17 **A** Yes.

18 **Q** All right. I believe you identified the tote as
19 approximately 18 to 20 gallons, correct?

20 **A** Yes.

21 **Q** And it contained a bunch of items?

22 **A** Right.

23 **Q** I think if I heard you right, what you said was
24 papers, clothes, photographs, and you did not remember for
25 sure what else, or did I hear you wrong? I'm sorry if I

1 did.

2 **A** No, I'm sure you heard me right. I just am not
3 certain without seeing a photograph. It has been quite some
4 time since I looked at this case file to be certain of
5 everything that was in it. I do recall looseleaf paper,
6 miscellaneous items; I don't recall what those were.

7 **Q** Okay. Let's take a look at Defendant's Exhibit No. 6,
8 and this would be in the black book that should be up there.
9 It is the last exhibit on the last tab. Take a quick look
10 at that. And I believe that was a receipt for property
11 during the search warrant that was prepared, it appears, by
12 you; is that correct?

13 **A** Yes.

14 **Q** Okay. So let's take a look at second page of
15 Defendant's Exhibit 6. And I believe what is reflected on
16 this page will be the items that were seized when you came
17 back later with the search warrant; is that correct?

18 **A** Yes.

19 **Q** Okay. So I see on -- kind of prominently on this page
20 a "red tote beside bed" mentioned over and over and over on
21 this return; do you see that?

22 **A** Yes.

23 **Q** I presume that is the tote to which we are referring
24 that you searched in the bedroom?

25 **A** Yes.

1 **Q** Okay. So let's take just a quick moment. These are
2 items I believe we know that you found in that tote, a Mead
3 notebook, correct?

4 **A** Yes.

5 **Q** Hotel stationery with plan, correct?

6 **A** Yes.

7 **Q** And I believe that references the one-page document
8 that is Government Exhibit No. 4; is that correct?

9 **A** Yes.

10 **Q** Okay. We also see there was a composition notebook,
11 correct?

12 **A** Yes.

13 **Q** Orange slash black zip bag with miscellaneous items,
14 correct?

15 **A** Yes.

16 **Q** Blue slash tan all-weather tactile notebook, correct?

17 **A** Yes.

18 **Q** A white/blue book, correct?

19 **A** Yes.

20 **Q** A 2018/2019 planner?

21 **A** Yes.

22 **Q** And a camouflage planner?

23 **A** Yes.

24 **Q** So we know at least those items were also in this red
25 tote when you first opened and searched it, correct?

1 **A** Yes.

2 **Q** Okay. There may have been others, but you don't
3 remember at this point?

4 **A** I mean, no.

5 **Q** Okay. You mentioned clothing. You mentioned
6 photographs. So potentially, there were some things that
7 were not seized during the search warrant?

8 **A** Right.

9 **Q** Okay. So it sounds like it was a fairly full tote
10 given the size you've explained and the number of items that
11 were in there, correct?

12 **A** Without seeing the picture -- again, I haven't looked
13 at this case file in quite some time. I would assume that
14 there was quite a bit of stuff in it, yes.

15 **Q** Okay. This note -- let's turn now to Government's
16 Exhibit No. 4, which is the note that I believe you found in
17 this tote, correct?

18 **A** Yes.

19 **Q** Okay. This was not laying on top of that tote,
20 correct?

21 **A** I wouldn't think it was laying on top. Again, I'm
22 sure we photographed it. It was in the tote.

23 **Q** Okay. But to your recollection, it was not the very
24 first thing?

25 **A** I cannot testify to where at in the tote.

1 **Q** Okay. And it was loose, it was not in one of
2 notebooks, it was not in the bag that was mentioned, it was
3 just laying amongst the other items in there?

4 **A** It was in the tote, and Tres' mother pointed it out.

5 **Q** Okay. So my question was: It was not in one of the
6 notebooks, it was not in a bag, it was just loose, or do you
7 not remember?

8 **A** I do not recall. I know Tres' mother pointed it out.

9 **Q** So she's standing back in the doorway, correct?

10 **A** She's standing in the doorway right beside me, yes.

11 **Q** Okay. So you're digging through this tote looking for
12 a gun, correct?

13 **A** Right.

14 **Q** Are you also looking for this piece of paper?

15 **A** No.

16 **Q** All right. So this piece of paper is one page, right?

17 **A** Yes.

18 **Q** Obviously, it doesn't contain a gun or hide a gun,
19 correct?

20 **A** Right.

21 **Q** So this piece of paper had nothing to do with finding
22 a handgun in his room, correct?

23 **A** Essentially, no.

24 **Q** Okay. What do you mean by "essentially"?

25 **A** His mother wanted us to see it. She pointed it out.

1 She had talked about it. She said that it talked about
2 killing people. So we did look at the note to see if there
3 was -- it said something about where a gun was at, so I did
4 look at the note, yeah.

5 **Q** I'm sorry, "said something about where a gun was at"?

6 **A** No. I looked at the note to see if it said that he
7 had a gun. At this point, he says he doesn't and his mom
8 says he does.

9 **Q** This was a note -- this was a note, your understanding
10 was, he wrote before he went to the military, correct?

11 **A** Yes.

12 **Q** And he was in the military from August to December of
13 the preceding year?

14 **A** At that time, we didn't know when he went to the
15 military.

16 **Q** But you knew he had been in the military?

17 **A** Right.

18 **Q** And you knew it was a note he wrote before he went to
19 the military?

20 **A** Right.

21 **Q** So a note written some months before wouldn't relate
22 to where a gun is in his room today, certainly?

23 **A** (Shaking head.) It could have.

24 **Q** No connection there, right?

25 **A** Huh?

1 **Q** There's no logical connection there, on where a gun
2 would be in his room today on a note his mother told you was
3 written when he went to the military?

4 **A** I have no way to know that.

5 **Q** I'm just asking you as a matter of logic. You're
6 searching for a gun today and you're looking at a note
7 written months ago to find a gun today?

8 **A** I will look anywhere to find a gun today if it means
9 saving the public from being shot.

10 **Q** Okay. But we agree the note itself doesn't conceal a
11 gun?

12 **A** Agreed.

13 **Q** Pardon?

14 **A** I agree.

15 **Q** Okay. All right. So this note, you read it, correct?

16 **A** I did not look at it in great depth, no. I looked at
17 it, and she explained what it was. It was set aside.

18 **Q** You didn't read the note?

19 **A** I looked over it. I mean, I wouldn't say that I sat
20 here and said it was a 5-minute conversation about what was
21 on it, no.

22 **Q** So you said you looked over it?

23 **A** Um-hmm.

24 **Q** When you looked over it, did you read the words?

25 **A** I did.

1 **Q** Okay. So you read the note?

2 **A** Yes.

3 **Q** Okay. Did you read the note top to bottom?

4 **A** I mean, I glanced at it. It didn't say nothing about
5 a gun, as far as where one could be.

6 **Q** So did you read -- do you remember how much of the
7 note you read? That's what I'm trying to get at.

8 **A** Well, I would have looked at the entire note to see if
9 it said anything about the gun, if he had one or owned one.

10 **Q** So you did read all of the words on the note?

11 **A** Yes.

12 **Q** Okay.

13 THE COURT: Mr. Monahan, can you keep your voice up
14 a little?

15 MR. MONAHAN: I'm sorry, Judge.

16 THE WITNESS: I'm sorry.

17 **Q** And then you set it on the bed, is that right, after
18 you read it?

19 **A** Yes.

20 **Q** Okay. Now, you've indicated that my client's mother
21 was in the doorway telling you about this note?

22 **A** Yes.

23 **Q** And I guess when you reached the point in the tub
24 where you got to the note, she said that's the note?

25 **A** Yes.

1 **Q** Did you indicate that in the search warrant you filled
2 out, that the mother pointed you to that note?

3 **A** If I can reflect back to my affidavit, I believe I
4 did, but if I can take a minute to read my affidavit.

5 **Q** That's Government Exhibit 1, if you wanted to look.

6 **A** I don't believe that -- it's not in my affidavit, no.

7 **Q** Okay, okay. And you did not -- when you saw this note
8 or when the mother told you, pointed you to this note, you
9 did not go back to Mr. Genco and ask for his consent to read
10 paperwork in his room, did you?

11 **A** No.

12 **Q** Did any officer do that?

13 **A** No.

14 **Q** All right. There was also a second piece of paper
15 found that I believe you've identified as Government's
16 Exhibit No. 5?

17 **A** Yes.

18 **Q** That was found, you indicated, in a desk, correct?

19 **A** Yes.

20 **Q** Was that also a loose piece of paper?

21 **A** Yes.

22 **Q** Are you saying today that the mother made any
23 statements about this document?

24 **A** No.

25 **Q** All right. Do you recall what other items were in the

1 desk drawer that were in there along with that piece of
2 paper?

3 **A** If I can refer to my inventory.

4 **Q** That was going to be the next step, so yes, please.
5 It's the third page of the inventory.

6 **A** Okay. Yeah.

7 **Q** Okay. So rather than read through all of this, I know
8 the judge can read it, it's page -- it's the third page of
9 the receipt for property, and I would just have you identify
10 it looks like Items 11 through 19 were all found in the desk
11 drawer, correct, by you?

12 **A** Yes.

13 **Q** Okay. So again, this piece of paper, this
14 Government's Exhibit No. 5, it was not laying on top of that
15 desk drawer, or do you remember?

16 **A** No, it wasn't.

17 **Q** Okay. Again --

18 **A** I'm sorry, Counselor, could you ask that again? Like
19 when you said it wasn't "laying on top of that desk drawer,"
20 it wasn't laying on the counter. It was in the desk drawer.

21 **Q** Yeah. So you opened the desk drawer?

22 **A** Yes.

23 **Q** It's not the top of the pile there?

24 **A** I don't recall. Sergeant Seaman is the one that
25 located that.

1 **Q** Okay.

2 **A** I collected it as evidence in a search warrant.

3 **Q** Okay. All right. So the two pieces of -- did you --
4 this drawing, this Government's Exhibit No. 5, you did in
5 fact look at this drawing at the house?

6 **A** I don't -- I think we all just probably discussed it.
7 I don't know that I actually looked at it before the search
8 warrant, no.

9 MR. MONAHAN: Okay. All right. Your Honor, may I
10 have a moment with my client?

11 THE COURT: Certainly.

12 (Pause.)

13 MR. MONAHAN: We have no further questions, Judge.
14 Thank you.

15 THE COURT: Mr. Monahan, do you want to move for
16 admission of Defendant's Exhibit 6?

17 MR. MONAHAN: Yes. We would move to admit
18 Defendant's Exhibit 6.

19 MS. GAFFNEY-PAINTER: No objection, Your Honor.

20 THE COURT: All right. Defendant's Exhibit 6 will
21 be admitted.

22 MR. MONAHAN: Thank you, Your Honor.

23 THE COURT: Any redirect, Ms. Painter?

24 MS. GAFFNEY-PAINTER: Very briefly, Your Honor.

25 May I proceed?

1 THE COURT: Yeah, you may proceed.

2 MS. GAFFNEY-PAINTER: Thank you.

3 REDIRECT EXAMINATION

4 BY MS. GAFFNEY-PAINTER:

5 Q Detective Engle, will you please turn to Government's
6 Exhibit 1 in your exhibit binder? You were asked some
7 questions by Mr. Monahan about the search warrant that you
8 got for the residence. Do you recall those questions?

9 A Yes.

10 Q All right. If you could, please turn to the fourth
11 page of Government Exhibit 1. Now, first, I'd like to
12 direct your attention to the first paragraph that appears on
13 the fourth page of Government Exhibit 1. If you could, go
14 five lines down of the first paragraph, and will you please
15 read to us the sentence that begins with the word "while"?

16 A While searching for the firearms, Affiant observed
17 several alarming articles of paper, including: A layout of
18 what appeared to be some sort of business; hotel stationery
19 that indicated a plot to possibly facilitate a mass shooting
20 on May the 23rd, 2020 at OSU, including the killing of 3,000
21 people with an M-16 rifle; training needed to facilitate
22 this act; secondary plans to carry out an ambush in a
23 populated area.

24 THE COURT: Could you slow down? The court
25 reporter has got to get everything you say.

1 THE WITNESS: I apologize.

2 THE COURT: That's okay. Just slow down a little
3 bit.

4 Q Yes. And if you could, I'll just have you read that
5 single sentence. And, forgive me, I believe you omitted
6 just a couple of words when you were reading about the
7 layout. So if you wouldn't mind just starting from the
8 beginning with the word "while," reading slowly for the
9 court reporter, and stopping when you get to the period of
10 that sentence.

11 A "While searching for the firearms, Affiant observed
12 several alarming articles of paper, including: A layout of
13 what appeared to be some sort of room or business; hotel
14 stationery that" -- that sentence is really long. So all
15 the way to the period?

16 Q Yes, please.

17 A -- "that indicated a plot to possibly facilitate a
18 mass shooting on May the 23rd, 2020 at OSU, including a
19 killing of 3,000 people with an M-16 rifle; training needed
20 to facilitate this act; secondary plans to carry out an
21 ambush in a populated area.

22 Q Thank you, Detective.

23 Now I'm going to direct your attention to the next
24 paragraph that appears on that same page, so we're still on
25 page 4, Government Exhibit 1. Now we're in the second

1 paragraph. If you go seven lines down, there is a sentence
2 that begins -- on the end of that line, it begins with a
3 woman's name. Without reading that woman's name out loud,
4 you can say "individual," will you please read the remainder
5 of that sentence that appears there?

6 **A** Individual spoke of a letter she had read that was
7 what she believed a plan for Tres to harm a lot of people;
8 however, she could not remember exactly when it was or where
9 it went.

10 **Q** Now, Detective Engle, as you read that sentence, you
11 read the word "not," "however, she could not remember."
12 That's what I recall your testimony to be. Does the word
13 "not" appear there?

14 **A** No.

15 **Q** Was that what you intended when you wrote this
16 document?

17 **A** Right, yes. I would like to correct that on the
18 record now.

19 **Q** Do you intend the word "not"? This is a typographical
20 error? I just wanted to be clear about what appears in the
21 document and what we're discussing.

22 **A** Right. Reading it out loud, it made more sense.

23 MS. GAFFNEY-PAINTER: Okay. No further questions,
24 Your Honor.

25 THE COURT: Thank you.

1 Any recross examination, Mr. Monahan?

2 MR. MONAHAN: A little, Your Honor. Thank you.

3 THE COURT: All right. You may proceed.

4 RECROSS-EXAMINATION

5 BY MR. MONAHAN:

6 Q Might have made it more confusing. You indicated in
7 testimony earlier that Mr. Genco's mother found this note
8 while cleaning when he was in the military, correct; that's
9 what you said earlier?

10 A Right.

11 Q Okay. So does reading what the prosecutor just had
12 you read change that opinion somehow, that this was a note
13 written before he went to the military?

14 A Does it change my opinion?

15 Q Yes.

16 A I mean, I would agree that it was a note written
17 before he went to the military, yes.

18 Q Okay, okay. And then circling back to the other
19 portion of this that the prosecutor had you read, it sounds
20 like before you got this affidavit, you had learned that you
21 believed this stationery -- and I'm back on the top
22 paragraph of page 4 of Government Exhibit 1, the section she
23 had you read. A layout of what appeared to be some sort of
24 room or business, I assume that refers to Government
25 Exhibit 5, the drawing?

1 **A** Yes.

2 **Q** So you did, it sounds like, look at the drawing in
3 order to prepare this affidavit, correct?

4 **A** I believe it was discussed of what it -- when we were
5 searching for the gun, it was an open discussion. I
6 wouldn't say verbatim exactly what was said, but I would
7 assume that it was along the lines of, look, I mean, this
8 looks like a drawing of a building.

9 **Q** So either you or some of the officers actually looked
10 at this piece of paper in order to know this information to
11 put it in the search warrant, correct?

12 **A** Yes.

13 **Q** Okay. And then the next thing Ms. Gaffney-Painter had
14 you read, hotel stationery that indicated a possible plot to
15 facilitate a mass shooting on May 23rd at a university,
16 including the killing of 3,000 people with an M-16 rifle.
17 So that reflects a good deal of reading what was in that
18 note, correct?

19 **A** I would agree that when I read it, I thought it was
20 alarming, yes.

21 **Q** And that --

22 **A** I remember that.

23 **Q** That reflects that you picked up that it was an M-16
24 rifle, the killing of 3,000 people, a specific date, all of
25 those were items that you read in that piece of paper,

1 correct?

2 **A** Yes.

3 **Q** And training needed to facilitate this act, that was
4 also something you read in that note?

5 **A** Yes.

6 **Q** And secondary plans to carry out an ambush in a
7 populated area, that was also something you read in that
8 note?

9 **A** Yes.

10 MR. MONAHAN: I don't have any further questions.

11 THE COURT: Thank you, Mr. Monahan.

12 Anything else, Ms. Painter?

13 MS. GAFFNEY-PAINTER: No. Thank you, Your Honor.

14 THE COURT: Okay. Detective Engle, the Court
15 appreciates your testimony and you are excused. Thank you.

16 (The Witness left the stand at 11:02 a.m.)

17 * * *

18 (Proceedings continued but are not contained within
19 this excerpted transcript.)

20 **C E R T I F I C A T E**

21 I certify that the foregoing is a correct transcript of
22 the record of proceedings in the above-entitled matter
prepared from my stenotype notes.

23 /s/ Lisa Conley Yungblut 10/27/2021
24 LISA CONLEY YUNGBLUT, RDR, RMR, CRR, CRC DATE
25

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